



SURFACE TRANSPORTATION BOARD

[Docket No. FD 36621]

Kinston Railroad, LLC—Change in Operator Exemption—Kinston & Snow Hill Railroad Co., Inc.

Kinston Railroad, LLC (KNR), a noncarrier, has filed a verified notice of exemption pursuant to 49 CFR 1150.31 to assume operation of approximately 5.7 miles of rail line near Kinston, Lenoir County, N.C., extending between milepost GTP-0.0 (and a connection at that location to a North Carolina Railroad Company track) and milepost GTP-5.7 at the North Carolina Global TransPark (the Line). The North Carolina Department of Transportation (NCDOT) owns the Line, and Kinston & Snow Hill Railroad Co., Inc. (KSHR), currently operates the Line pursuant to a 2015 lease with NCDOT (the Lease).¹ See N.C. & Atl. R.R.—Lease & Operation Exemption—N.C. Dep’t of Transp., FD 36008 (STB served Mar. 25, 2016); N.C. & Atl. R.R.—Lease & Operation Exemption—N.C. Dep’t of Transp., FD 36008 et al., (STB served Nov. 4, 2016) (providing notice that North Carolina & Atlantic Railroad Co., Inc., changed its name to Kinston & Snow Hill Railroad Co., Inc.).

According to the verified notice, KNR has entered into an agreement with KSHR—with NCDOT’s consent—under which KSHR will assign its interest in the Lease to KNR, and KNR will commence common carrier operations over the Line in place of KSHR. Based on projected annual revenues for the Line, KNR expects to become a Class III rail carrier after consummation of the proposed transaction.

¹ Public and confidential versions of the Lease were filed with the verified notice. The confidential version was submitted under seal concurrently with a motion for protective order, which will be addressed in a separate decision.

This transaction is related to a concurrently filed verified notice in OPSEU Pension Plan Trust Fund—Continuance in Control Exemption—Kinston Railroad, Docket No. FD 36620, in which the filing parties seek to continue in control of KNR upon KNR's becoming a Class III rail carrier.

As required under 49 CFR 1150.33(h)(1), KNR certifies in its verified notice that the proposed change of operator on the Line does not involve, and the Lease between NCDOT and KSHR does not include, any provision or agreement that may limit future interchange with a third-party connecting carrier.

KNR certifies that its projected annual revenues as a result of the transaction will not exceed \$5 million and will not result in the creation of a Class I or Class II rail carrier. Under 49 CFR 1150.32(b), a change in operator exemption requires that notice be given to shippers. KNR certifies that it has provided notice of the proposed change in operator to the shippers on the Line.

The transaction may be consummated on or after June 30, 2022, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than June 23, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36621, must be filed with the Surface Transportation Board via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on KNR's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606-3208.

According to KNR, this action is categorically excluded from historic preservation reporting requirements under 49 CFR 1105.8(b) and from environmental reporting requirements under 49 CFR 1105.6(c).

Board decisions and notices are available at www.stb.gov.

Decided: June 13, 2022.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Kenyatta Clay,
Clearance Clerk.

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